

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Yong-Li Ruan et al.

Application No.: 10/003,405

Filed: December 6, 2001

For: MODIFICATION OF SUCROSE
SYNTHASE GENE EXPRESSION IN
PLANT TISSUE AND USES
THEREFOR



) **Mail Stop Amendment**

) Group Art Unit: 1638

) Examiner: RUSSELL KALLIS

) Confirmation No.: 5391

AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Amendment mailed August 18, 2005, below is a corrected version of the Amendment filed April 29, 2005 in response to the Office Action dated March 1, 2005. In view of the situation described below, amendments and remarks in response to the Official Action mailed June 30, 2004 are also provided.

INTRODUCTION

The Notice states that an "a" that was crossed out in line 5 of claim 1 in a previous amendment has been retained in the Amendment filed April 29, 2005, which was previously re-filed with a corrected claim status designator for claim 11 on May 18, 2005. The Notice further advises that applicants should return to the claims originally filed on December 6, 2001 in preparing a compliant amendment.

A review of the file history may be helpful to clarify the current situation. An Amendment was filed on December 27, 2004 that used "Deleted" instead of "Canceled" as a status indicator in the claims listing. In the Office Action dated March 1, 2005, the Examiner

referred to this as "the amendment filed February 27, 2005" and stated that it was considered non-compliant. However, the Examiner did not state that the Amendment filed December 27, 2004 (or February 27, 2005) would not be entered. Rather, in the interest in compact prosecution, the Examiner acted upon the Amendment filed December 27, 2004.

The Amendment filed April 29, 2005 in reply to the Office Action dated March 1, 2005 presumed that the previous Amendment had been entered. Unfortunately, the Amendment filed April 29, 2005 inadvertently retained the same non-compliant use of "Deleted" copied from the previous amendment. The Office issued a Notice of Non-compliant Amendment dated May 11, 2005, noting the improper use of "Deleted" instead of "Canceled" (but not the extra "a" in line 5 of claim 1). The noted error was corrected and the Amendment was re-filed on May 18, 2005.

As an aside, Applicant's representative is happy to note that as of June 2005, in the face of a surprisingly high rate of amendments using synonymous non-compliant claim status identifiers, the Office has announced that it will now accept "Canceled" or "Deleted" as equivalent claim status identifiers. *See, e.g.,*

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/noncompliantOG-060105.pdf>

Applicants now understand, from the Notice of Non-Compliant Amendment mailed August 18, 2005, that the Amendment filed December 27, 2004, although acted on, was actually not entered and is asserted to not be the proper basis for the present amendment. Accordingly, the following version of the Amendment filed April 29, 2005 in response to the Office Action dated March 1, 2005 contains a claim listing that shows the difference between the claims as originally presented December 6, 2001 and the claims as presented in the Amendment filed April 29, 2005, including amendments to the claims previously submitted in the non-entered Amendment filed December 27, 2004. The listing also indicates that claim

11 has been "Canceled." In consideration of the fact that the Amendment filed December 27, 2004 was not entered, an amendment of the Specification from the non-entered Amendment filed December 27, 2004, is also reproduced here so that it may now be entered.

Finally, Applicants' Remarks in the non-entered Amendment filed April 29, 2005 have been revised to conform to the situation as it is now understood, including the reiteration of remarks provided in the non-entered Amendment filed December 27, 2004, revised to reflect the present situation.

Please amend the above-identified patent application as follows: